

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Dwight T. Elder, Jr.,)	
)	C/A No. 9:15-1487-MBS
Plaintiff,)	
)	
vs.)	
)	OPINION AND ORDER
Circuit Court Judge Miller,)	
)	
Defendant.)	
)	

At the time of filing of this action, Plaintiff Dwight T. Elder, Jr. was detained at the Kirkland Correctional Institution in Columbia, South Carolina. Plaintiff, proceeding pro se, filed a complaint on April 3, 2015, in which he alleges, among other things, violations of his constitutional rights. Plaintiff brings the within action pursuant to 42 U.S.C. § 1983.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., the within action was referred to United States Magistrate Judge Bristow Marchant for pretrial handling. On June 9, 2015, the Magistrate Judge issued a Report and Recommendation in which he found that Defendant Circuit Court Judge Miller is entitled to absolute judicial immunity from suit for all actions taken in his official capacity. The Magistrate Judge recommended that the case be summarily dismissed without prejudice and without issuance and service of process. A copy of the order was sent to Plaintiff at his last known address at Kirkland Correctional Institution, 4344 Broad River Road, Columbia, South Carolina 29210. On April 5, 2012, the envelope containing Plaintiff's copy of the Report and Recommendation was returned to the Office of the Clerk of Court, marked "RETURN TO SENDER - NOT DELIVERABLE AS ADDRESSED - UNABLE TO FORWARD."

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court.

Mathews v. Weber, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of any portions of the Report and Recommendation to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

Plaintiff has provided the court with no change of address and the court is unable to provide Plaintiff with a copy of the Report and Recommendation. Accordingly, the within action is dismissed *without prejudice*.

IT IS SO ORDERED.

/s/ Margaret B. Seymour

Senior United States District Judge

Columbia, South Carolina

July 1, 2015

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.